

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

762 SCOM123: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

32 of
27 Nov 80

53.415 Limitation? ^{ON} Sales Tax

Land selection statutes - Buens

Sharp moved to drop ten days
extra (29.30.290). Discussion

- Petition sigs. have to be valid to get
extra 10 days - motion (reducing)

- Keep grounds for recall?

Include Affidavit in petition?

Standards? 1 No Standards 12

Person being recalled can challenge
sufficiency of signatures ~~to assembly~~
~~or court~~

Appeal clerk's decision.

Yes The clerk's decision is final until
challenged in Superior Court.

29.30.250 ^{or 2}

Tesche motion ^{regular} 35% of voters voting
in the ~~last~~ municipal in which votes were cast
for that office. ~~meeting of time being~~
~~treated~~ I opposed

union on each end.

1 yr term exempt from recall

- list of those elected off subject to recall
school bds etc.

Initiative & Referendum:
Shancey & Sharp.
Filing time

29.30.160 (b) -

2090-180 Apply
Move to ADD sec allowing mun. to exempt
as otherwise themselves for not by elect satisfied
voters of name party

NOTE: AS recd to Policy group.

Article 1. Regular and Special Elections

<u>New Sec. No.</u>	<u>Old Sec. No.</u>	<u>Sec. Title</u>
29.30.010	29.28.010	Administration
29.30.020	29.28.015	Nominations
29.30.030	29.28.020	Election dates
29.30.040	29.28.030	Voter qualifications
29.30.050	29.28.040	Majority elections
29.30.060	29.28.050	Election contest and appeal

Article 2. Initiative and Referendum

29.30.090	29.28.060	Reservation of powers
29.30.100	29.28.062	Petition <u>filing</u>
29.30.110	29.28.062	Contents of petition
29.30.120	29.28.070	Required signatures
29.30.130	NEW SEC.	<u>Petition circulation and certification</u>
29.30.140	29.28.073	<u>Petition--Sufficient, Insufficient, Supplemental</u>
29.30.150	29.28.075	Protest
29.30.160	29.28.077	New petition
29.30.170	29.28.080	Presentation of initiative
29.30.180	29.28.090	Presentation of referendum
29.30.190	29.28.110	Effect (reworded and moved to 30.180)
29.30.190	29.28.110(b)	<u>Unsuccessful initiatives or referendums</u>
29.30.200	29.28.090(c)	<u>Municipal charter amendment</u>

Article 3. Recall

29.30.210	29.28.130	<u>Scope of Recall</u>
29.30.220	29.28.140	<u>Grounds for recall</u>
29.30.230	29.28.150	<u>Contents of petition</u>
29.30.240	NEW SEC.	<u>Petition circulation and certification</u>
29.30.250	29.28.160	<u>Petition--Sufficient, Insufficient, Supplemental</u>
	29.28.170	
29.30.260	NEW SEC.	<u>Protest</u>
29.30.270	29.28.180	New petition
29.30.280	29.28.190	Submission
29.30.290	29.28.200	<u>Recall election</u>
29.30.300	29.28.210	Form of recall ballots
29.30.310	29.28.220	Election procedure
29.30.320	29.28.230	Majority required
29.30.330	29.28.240	Effect
29.30.340	NEW SEC.	<u>Certification of election results</u>
29.30.350	29.28.250	<u>Election or appointment of successor</u>

29.28 ELECTIONS

Article 1. Regular and Special Elections

Sec. 29.28.010. Administration. OK

(a) The borough assembly or city council shall prescribe the general rules for conducting municipal elections and [APPOINT AT LEAST THREE JUDGES FOR EACH POLLING PLACE.] shall appoint election boards, composed of at least three judges, for each precinct. The judges shall, to the extent possible, be appointed from among the qualified voters of each of the precincts for which they are appointed. [See AK 15.10.120] [The municipality may not alter voter qualification requirements of this title.]

(b) This section applies to home rule and general law municipalities.

Attempted to clarify election board appointment and referenced '80 revised AK 15.10.120 for consistency. Deleted "The municipality may not alter . . ." because issue is addressed at Sec. 29.28.030.

29.28 ELECTIONS

Sec. 29.28.015. Nominations.

(a) The assembly or council shall provide by ordinance the procedure for the nomination of elected officers by [PROVIDING FOR] declaration of candidacy, or petition requiring the signatures of not more than 10 [VOTERS] qualified voters, or both.

Motion to delete "qualified" passed.

(b) A person may be nominated for and occupy more than one office, but he may not serve simultaneously as borough mayor and as a member of the borough assembly or as mayor and as a member of the council of a first class city.

Lee Sharp suggests that ~~it~~ should be left to local option as to whether the mayor in a manager-type municipality should be permitted to be a member of the legislative body so long as he does not have the veto power. If the Committee supports this suggestion, (b) should be amended.

29.28 ELECTIONS

Sec. 29.28.020. Election dates.

*clean up
language*

(a) [THE DATE OF A] Regular municipal elections [IS THE] shall be held
on the first Tuesday of October annually [, OR ON A DATE OF ELECTION] or at
an interval of years as provided by ordinance. *LEAVE & CLARIFY*

(b) The assembly or council may call a special election upon at least
20 days' notice.

29.28 ELECTIONS

Sec. 29.28.030 Voter qualification.

(a) A person may vote at any election who meets the requirements of AS 15.05.010 - .040, who is registered to vote in State elections and is not disqualified under Article V of the State Constitution, who has been a resident of the municipality for 30 days immediately preceding the election, *added, so is registered in* ~~(and whose name appears on the official registration list for the~~ precinct in which he presents himself to vote.) (See AS 15.07.010 - '80)

(b) Voter registration by the municipality may not be required, and a municipality may not alter voter qualification requirements.

(c) This section applies to home rule and general law municipalities.

Incorporates Municipal League recommendation.

29.28 ELECTIONS

Alternate A

Sec. 29.28.040 Majority elections

(a) An assembly or council may by ordinance provide the requirement for a runoff election if no one candidate receives in excess of 40 percent of the votes cast for a respective office.

(b) An assembly or council may by ordinance require a majority vote for the election of officials. A runoff election or other means of obtaining a majority may be used.

This amendment would require municipalities to enact an ordinance providing for runoffs; otherwise, all municipalities would be exempt from this present requirement

Alternate B

Sec. 29.28.040 Majority elections

(a) If in a municipal election no candidate receives in excess of 40 percent of the votes cast for his respective office, the assembly or council shall hold a runoff election between the two candidates receiving the greatest number of votes for the office. The runoff election shall be held within three weeks from the date of certification of the election for which the runoff is required and notice of the runoff election shall be published at least five days prior to the election date. An assembly or council may by ordinance exempt its elections from the requirements of this section.

(b) An assembly or council may by ordinance require a majority vote for the election of officials. A runoff election or other means of obtaining a majority may be used.

Sec. 29.28.040 cont'd
Alternate B

This amendment would allow municipalities to enact an ordinance which would exempt them from the runoff requirement. The change to three weeks (from two weeks) for the date of the runoff allows the additional time necessary so cities within boroughs can coordinate their runoffs and hold them at the same time.

Sec. 29.28.040 Majority elections

Alternate C

(a) If in a municipal election no candidate receives in excess of 40 percent of the votes cast for his respective office, the assembly or council shall hold a runoff election between the two candidates receiving the greatest number of votes for the office. The runoff election shall be held within three weeks from the date of certification of the election for which the runoff is required and notice of the runoff election shall be published at least five days prior to the election date. A municipality may exempt itself from the requirement of this section if a majority of the voters voting on the question at any regular election or a special municipality-wide election called for that purpose, vote to exempt its municipal elections from the requirements of this section.

(b) An assembly or council may by ordinance require a majority vote for the election of officials. A runoff election or other means of obtaining a majority may be used.

This amendment would allow municipalities to exempt itself from the runoff requirement by means of voter ratification. Incorporates Municipal League recommendation.

AS 29.28 ELECTIONS

Sec. 29.28.050 Election contest and appeal.

UNCHANGED

§ 29.28.050

ALASKA STATUTES

§ 29.28.062

Sec. 29.28.050. Election contest and appeal. (a) The assembly or council may provide by ordinance the time and procedure for the contest of an election.

(b) Unless otherwise provided by ordinance, an election may be contested only upon the filing, before or at the time of the first canvass of ballots by the assembly or council, by a person qualified to vote in the municipality of his written affidavit specifying with particularity the grounds for the contest or invalidity of the election.

(c) Unless otherwise provided by ordinance, the assembly or council shall declare the election results at the first meeting to canvass the election and record the results in the minutes of that meeting.

(d) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two per cent.

(e) No person may appeal or seek judicial review of a city or borough election for any cause or reason unless the person is qualified to vote in the municipality, has exhausted his administrative remedies before the assembly or council and has commenced, within 10 days after the assembly or council has finally declared the election results, an action in the superior court in the judicial district in which the municipality is located. If no such action is commenced within the 10-day period, the election and election results shall be conclusive, final and valid in all respects. (§ 2 ch 118 SLA 1972)

(f) Notwithstanding the provisions of (e) of this section, the expulsion of a member of a borough assembly under AS 29.23.060 (c), of a member of a city council under AS 29.23.210(b), of a borough mayor under AS 29.23.130(f), or of a city mayor under AS 29.23.255 is final and is not subject to judicial review.

'80 addition

29.28 ELECTIONS

Article 2. Initiative and Referendum.

Sec. 29.28.060. Reservation of powers.

Unchanged

Sec. 29.28.060. Reservation of powers. The powers of initiative and referendum are reserved to the residents of municipalities except the powers do not extend to matters restricted by § 7, art. XI, of the state constitution. (§ 2 ch 118 SLA 1972)

Borough voters may use an initiative to acquire an areawide power for transfer. 1965 Op. Att'y Gen., No. 6.

Sec. 29.28.062 Petition filing.

Unchanged

Sec. 29.28.062. Petition. A petition for initiative or referendum is filed with the municipal clerk and an initiative petition must be filed not less than 90 days before the next regular election. (§ 2 ch 118 SLA 1972)

Sec. 29.28.065 Contents of petition.

Unchanged

Sec. 29.28.065. Contents of petition. A petition for an initiative or referendum shall

- (1) embrace only a single comprehensive subject;
- (2) set out fully the ordinance or resolution sought by the petition;
- (3) state upon the petition, when circulated, the date of first circulation of the petition;
- (4) contain the statement, when circulated, that the signatures on the petition must be secured within 90 days from the date of the first circulation;
- (5) have the required signatures, dates of signatures and resident addresses of the signers. (§ 2 ch 118 SLA 1972)

29.28 ELECTIONS

Sec. 29.28.070. Required signatures.

(a) The necessary signatures on a petition shall be secured within 90 days from the date of the first circulation of the petition. The petition shall be signed in ink or indelible pencil.

(b) Every municipal initiative or referendum petition [FOR EITHER THE INITIATIVE OR REFERENDUM IN THE GOVERNMENT OF A MUNICIPALITY] shall be signed by a number of qualified voters residing within the territorial limits of the municipality, or, if the act sought to be initiated or referred pertains exclusively to the area outside cities, to a service area, or to a district, by a number of qualified voters residing within the respective area [OUTSIDE CITIES OR WITHIN THE SERVICE AREA, AS THE CASE MAY BE, EQUAL TO THE FOLLOWING] equal to 25/30 percent of the total number of votes cast at the last [GENERAL] regular election preceding the date of first circulation of the petition [IN THE CITY OR BOROUGH OR BOROUGH AREA CONCERNED OR SPECIAL ELECTION CALLED FOR THE PURPOSE OF ELECTING CITY OR BOROUGH OFFICERS:] in the respective area concerned.

[(1) 25 PERCENT, WHEN A CITY OR BOROUGH HAS FEWER THAN 7,500 PERSONS, OR

(2) 15 PERCENT, WHEN A CITY OR BOROUGH AS 7,500 PERSONS OR MORE.]

(c) When signing a petition each voter shall write or print after his signature the date of signing the petition and his resident and mailing address.

(d) Illegible signatures unless accompanied by a legible printed name may be rejected by the municipal clerk.

(e) A petition signer may withdraw his signature upon written application to the clerk within seven days after the petition has been filed with the clerk.

Amendment does not address Richard Garnett III's concern regarding service area petitions. In (b) Municipal League supports 30 percent, Clerks support 25 percent.

29.30.125
(new section)

29.28 ELECTIONS

NEW SECTION

Sec. 29.28.071 Petition circulation and certification.

(a) Petitions shall be circulated only by a sponsor and only in person. If more than one sponsor is circulating copies of a petition, one spokesman shall be appointed by the sponsors for purposes of receiving notification of petition sufficiency, and the clerk shall receive written notice of the spokesman's name and mailing address.

(b) Before being filed, each petition shall be certified by an affidavit by the sponsor who personally circulated the petition. The affidavit shall state:

(1) the person signing the affidavit was the only circulator of the petition;

(2) the signatures were made in his actual presence; and

(3) to the best of his knowledge, the signatures are those of the persons whose names they purport to be.

Has the effect of requiring a witness to the signatures on a petition; conforms to State law.

29.28 ELECTIONS

Sec. 29.28.073. Petition--Sufficient, Insufficient, Supplemental.

(a) Within 10 days from the date of filing, the municipal clerk shall certify the petition as to its sufficiency and shall so notify the sponsor or spokesman.

(b) The clerk shall notify the sponsor or spokesman that the petition is insufficient if he determines that the petition does not meet the requirements as set forth in this article.

(c) Upon receipt of notice that the filing of the petition was improper, the sponsor/s may amend and correct the petition by circulating and filing a corrected or supplementary petition within 10 days of the date that notice was given if 90 days from the petition's first circulation have not yet expired.

(d) Within 10 days from the date of filing of a corrected or supplementary petition, the municipal clerk shall recertify the petition. If the petition is still insufficient, the petition shall be rejected and filed as a public record and the sponsor or spokesman shall be so notified.

(e) For the purposes of this article, all notices required of the clerk to be given to the sponsor or spokesman shall be by certified mail.

days
to coincide
with

29.28 ELECTIONS**Sec. 29.28.075. Protest**

Unchanged

Sec. 29.28.075. Protest. If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest with the municipal executive within seven days after the certification and the municipal executive shall present the protest at the next regular meeting to the assembly or council which shall hear and decide the protest. (§ 2 ch 118 SLA 1972)

SEc. 29.28.077. New petition

Unchanged

Sec. 29.28.077. New petition. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition may not be filed sooner than six months after a petition is rejected. (§ 2 ch 118 SLA 1972)

29.28 ELECTIONS

Sec. 29.28.080. Presentation of initiative.

(a) When a petition seeks enactment of an ordinance or resolution within the powers of the assembly or council, excepting powers of an administrative nature and not otherwise restricted by §60 of this chapter, the clerk shall present it to the assembly or council at its next regular meeting following [AFTER] certification. The assembly or council may reject the petition if the subject matter of the initiative [OR REFERENDUM] is within the restrictions of §60 of this chapter or is determined to be of an administrative nature.

(b) Unless the petition is granted within 30 days of its submission to the assembly or council, the clerk shall, with the assistance of the municipal attorney, prepare an ordinance or resolution to implement the petition and shall submit it to the voters at the next regular election.⁷ The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.

(c) If a majority of those qualified electors voting favor the proposal, it becomes effective [WHEN THE ELECTION RESULTS ARE OFFICIALLY DECLARED] immediately ~~30 days~~ following certification of the election results, is not subject to veto, and may not be repealed within two years of its effective date. It may be amended at any time.

(d) The assembly or council may at any time not less than 10 days from the date of election adopt an ordinance or resolution to implement the petition. In that event an election shall not be held. The adopted resolution or ordinance is not subject to veto(?) may not be repealed within two years of its effective date. It may be amended at any time.

Rewrite attempts to incorporate recommendations of Lee Sharp, Richard Garnett III, and follows provisions of Article XI §6 of the Constitution.

29.28 ELECTIONS

Sec. 29.28.090 Presentation of referendum.

(a) When a petition seeks a referendum vote on an ordinance or resolution, excepting legislation determined to be of an administrative nature, the clerk shall submit the ordinance or resolution to the voters of the municipality at the next regular or special election. If no regular or special election [OCCURS] is scheduled to occur within 75 days of the filing of a sufficient petition with the clerk, the assembly or council shall schedule and hold a special election within 75 days of filing. If the clerk determines that the subject of the petition is of an administrative nature, he shall present the petition to the assembly or council at its next regular meeting following certification of the petition. The assembly or council may reject the petition if the subject matter is determined to be of an administrative nature.

(b) If a sufficient petition for referendum is filed within 30 days after final passage of the ordinance, or before the effective date of the ordinance, [THE ORDINANCE AGAINST WHICH THE PETITION IS FILED SHALL BE SUSPENDED PENDING THE REFERENDUM ON THE ORDINANCE. DURING THE PERIOD OF SUSPENSION] the assembly or council may [NOT ENACT AN ORDINANCE SUBSTANTIALLY SIMILAR TO THE SUSPENDED ORDINANCE BUT MAY] repeal the [SUSPENDED] ordinance. If an ordinance against which a referendum is directed has been repealed by the assembly or council after a petition has been filed but before the referendum, the council or assembly may not enact substantially similar legislation for a period of [ONE YEAR] two years after repeal.

(c) If a majority of those voting favor the referendum legislation, it remains in effect. If a majority rejects the legislation, it is repealed and becomes void 30 days after certification of the election results, and the assembly or council may not, within two years, act in any way to modify or negate the effect of a successful [INITIATIVE OR] referendum.

29.28 ELECTIONS

29.30.170

(explanatory notes)

Sec. 29.28.090 cont'd

(a) incorporates recommendations of Lee Sharp and Richard Garnett III and Wolf v. Alaska State Housing Authority re: legislation of an administrative nature

(b) reflects ruling in Walters v. Cease (referred to in State Constitution XI § 6) re: suspension of legislation

(c) conforms to State Constitution XI § 6 re: when legislation becomes void

29.30.180 → .18
(new title) (new serial)

29.28 ELECTIONS

Sec. 29.28.110 Effect

Deleted - (a) reworded and moved to 29.28.090

Sec. 29.28.110 Unsuccessful initiatives or referendums (NEW TITLE)

(a) An unsuccessful initiative or referendum precludes the filing of a new petition for the same purpose sooner than six months after voter disapproval of the initiative or referendum.

this is previous Sec. 29.28.110 (b)

Sec. 29.28.120 Municipal charter amendment (NEW SECTION)

(a) A municipal charter may be amended as provided in the charter or by initiative and referendum as provided in Article 2 of this chapter.

this is a portion of previous Sec. 29.28.090 (c)

29.28 ELECTIONS

Article 3. Recall.Sec. 29.28.130 Scope of Recall (NEW TITLE)

(a) All [AN] elected officials [OF A HOME RULE OR GENERAL LAW MUNICIPALITY MAY BE RECALLED] are subject to recall [BY THE VOTERS] after [HE HAS SERVED] having served six months in office.

Sec. 29.28.140 Grounds for recall (NEW TITLE)

The grounds for recall are misconduct in office, incompetence, failure to perform prescribed duties and to uphold the laws and ordinances of the municipality, and corruption.

Alternate: Delete 29.28.140, 29.28.150 (2) + 29.28.210 (1)
 B No grounds

Alternate: Leave in 29.28.140 but provide for
 C more stringent petition requirements if
 official is subject to recall w/out
 grounds being specified.

29.28 ELECTIONS

29.28.230
Sec. 29.28.150^{Contents of} Petition.

(a) A petition seeking the recall of [ONE OR MORE] an elected municipal official[S] is filed with the municipal clerk. The petition shall contain:

- (1) the name and office of the person to be recalled;
- (2) a statement of the grounds for recall stated with particularity as to specific instances, limited to 200 words;

(3) the signatures, [AND] resident addresses and mailing addresses and date of signing of [A NUMBER OF VOTERS AS PRESCRIBED IN §70(b) OF THIS CHAPTER FOR INITIATIVE AND REFERENDUM] a number of qualified voters residing within the territorial limits of the area from which the elected official was elected equal to 25/30? percent of the total number of votes cast at the last regular election preceding the date of first circulation of the petition.

(4) a statement of the date of first circulation of the petition and a statement that the signatures on the petition must be secured within 60 days from the date of the first circulation.

(b) If more than one elected municipal officer is being considered for recall simultaneously, a separate petition shall be filed for each official.

(c) A petition for recall must be filed with the clerk within 60 days after the date of the earliest signature on the petition.

(d) No recall petition shall be filed within 90 days of the termination of the term of office of the public official who is the subject of the recall petition.

29.28 ELECTIONS

Sec. 29.28.155 Petition circulation and certification (NEW SECTION)

(a) Recall petitions are subject to the requirements for initiative and referendum petition circulation and certification as prescribed in AS 29.28.071.

Sec. 29.28.160 Petition--Sufficient, Insufficient, Supplemental (NEW TITLE)

*Revised
1160 to 170*
(a) Within 10 days from the date of filing, the municipal clerk shall certify the petition as to its sufficiency and shall so notify the sponsor or spokesman. Until the petition is accepted as sufficient, a petition signer may withdraw his signature upon written application to the clerk.

(b) The clerk shall notify the sponsor or spokesman that the petition is insufficient if he determines that the petition does not meet the requirements as set forth in this article.

(c) If a petition is rejected because of insufficient signatures, it may be supplemented by additional signatures within 10 days after the date of rejection if 60 days from the petition's first circulation have not yet expired. Within 10 days after the supplementary filing, the clerk shall recertify the petition as to its sufficiency and so notify the sponsor or spokesman. If the petition is still insufficient it shall be rejected and filed as a public record.

(d) A petition found insufficient for any reason other than the lack of sufficient signatures shall be rejected and filed as a public record.

(e) For the purposes of this article, all notices required of the clerk to be given to the sponsor or spokesman shall be by certified mail.

(Also includes provisions of previously numbered
Sec. 29.28.170 Supplemental Petition)

29.28 ELECTIONS

29.30, 255 (new section)
+ .260 → .280

Sec. 29.28.170 Protest. (NEW SECTION)

(same as protest provisions for initiative and referendum)

If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest with the municipal executive within seven days after the certification and the municipal executive shall present the protest at the next regular meeting of the assembly or council, which shall hear and decide the protest.

SEc. 29.28.180 New Petition

Unchanged.

Sec. 29.28.180. New petition. Failure to secure sufficient signatures does not preclude the filing of a new recall petition. However, a new petition may not be filed sooner than six months after a petition is rejected. (§ 2 ch 118 SLA 1972)

Sec. 29.28 190 Submission.

If a recall petition is sufficient, the clerk shall [IMMEDIATELY] submit it to the assembly or council at its next regular meeting.

Sec. 29.28.200 Recall election

(a) If a regular election occurs within 75 days of submission of a sufficient petition, the assembly or council shall submit the recall at that election.

(b) If no regular election will occur within 75 days, the assembly or council shall hold a special election within 75 days of submission.

(c) If a vacancy occurs in the office after a recall petition is filed, the petition shall not be submitted to the voters and such vacancy is filled as a vacancy caused by any other reason is filled. The resigning official who was the subject of the recall petition shall not be eligible for appointment to the vacant position.

Should
this be
a separate
section?

29.28 ELECTIONS

Sec. 29.28.210 Form of recall ballots

Unchanged

Sec. 29.28.210. Form of recall ballots. A recall ballot contains:

- (1) the grounds as stated in the recall petition;
- (2) the officer's statement of 200 words or less, if the statement is filed with the clerk for publication and public inspection within 20 days before the election;
- (3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [] No []". (§ 2 ch 118 SLA 1972)

Sec. 29.28.220 Election procedure

Unchanged

Sec. 29.28.220. Election procedure. Procedures for conducting a recall election are those of a regular election. (§ 2 ch 118 SLA 1972)

Sec. 29.28.230. Majority election required

Unchanged

Sec. 29.28.230. Majority required. A majority vote on the question is required to recall an officer. (§ 2 ch 118 SLA 1972)

Sec. 29.28.240. Effect

Unchanged

Sec. 29.28.240. Effect. If an incumbent is not recalled at the recall election, a petition to recall the same incumbent may not be filed sooner than six months after the recall election. (§ 2 ch 118 SLA 1972)

29.30.325 (new order)
+ . 330

29.28 ELECTIONS

Sec. 29.28.245 Certification of election results (NEW SECTION)

If a majority of the votes cast on the question of recall favor the removal of the official, the assembly or council shall so certify and the office becomes vacant the day following certification.

Sec. 29.28.250 Election or appointment of Successor

(a) If the voters recall an officer, the remaining council or assembly members shall appoint a successor to serve until an election shall be held.

The clerk shall conduct an election for a successor to fill the unexpired term of the recalled official, which election shall be held at least 10 but not more than 45 days from the date of the recall election. However, if a regular or special election occurs within 75 days of the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section.

(b) If the voters recall a number of officials which has the effect of leaving the legislative body with less than a quorum, the remaining council or assembly members shall have the emergency power to appoint successors to serve until an election shall be held.

(c) If the voters recall an entire legislative body, the executive officer?
shall have the power to appoint successors to serve until an election shall be held.

(d) If no candidates file to have their names placed on the ballot to replace the recalled officer, the remaining council or assembly members shall appoint a successor to serve for the unexpired term of the recalled official. If an entire legislative body has been recalled and no candidates

29.28 ELECTIONS

29.28.250 cont'd

file for the vacancies, the ^{executive?} officer shall have the power to appoint successors to serve for the unexpired terms of the recalled officials.

(e) All appointed successors shall have the qualifications and meet the requirements established for election to the position to which appointed and shall not be one of the officials recalled.

It's difficult to address all the "what ifs"; I'm sure I missed some!

1 TITLE 29 REVISION

2 PROPOSAL FOR INITIATIVE AND REFERENDUM
3 (Formerly AS 29.28.060-110)

4 October 20, 1980

5 29.30.090 Reservation of Powers. The powers of
6 initiative and referendum are reserved to the residents of
7 municipalities except the powers do not extend to matters
8 restricted by §7, art. XI of the State Constitution.

9 (Unchanged.)

10 29.30.095 Application. An initiative or referendum
11 is proposed by an application containing the legislative
12 matter to be initiated or referred. The application shall
13 be signed by not less than ten qualified voters as sponsors,
14 shall contain the address to which all correspondence relating
15 to the application may be sent, and shall be filed with the
16 clerk. The clerk shall certify the application if he finds
17 that the application is in proper form, and in addition, if
18 the application is for an initiative, that the matter to be
19 initiated is not restricted by §90, embraces only a single
20 subject, and as to each part, would not be unenforceable as
21 a matter of law. The clerk's certification or denial of
22 certification shall be subject to judicial review.

23 (This section is new. The first part is
24 modeled after §2 of the initiative article in the state
25 constitution. As drafted, this section would also make it
26 clear that the clerk is to review initiatives for substantive
27 legality and that the clerk's decision is subject to appeal.
This procedure will allow for a judicial determination of
the legality of an initiative prior to the expense of an
election.)

NOTM
11/11/2011
2wks
ea. way

1 29.30.110 Petition. After certification of the
2 application, a petition containing a summary of the subject
3 matter shall be prepared by the clerk for circulation by the
4 sponsors. The petition shall

5 (1) set out fully the ordinance or resolution
6 sought to be initiated or referred by the petition;

7 (2) state upon the petition the date first
8 issued by the clerk;

9 (3) contain the statement, when circulated,
10 that the signatures on the petition must be secured within
11 60 days of the date first issued;

12 (4) contain spaces for the required signatures,
13 the printed name of each person signing the petition, the
14 date of each signature, and both the resident and the mailing
15 address of each signer;

16 (5) contain a statement to be signed and
17 sworn to by the circulator stating the number of signatures
18 on the petition page or pages, that ^{each} the circulator personally
19 circulated the page or pages, that all signatures were
20 affixed in his presence, that he believes them to be genuine
21 signatures of the persons whose names they purport to be,
22 that each signer had an opportunity before signing to read
23 the full text of the proposed initiative or referred measure,
24 and that he believes each signer to be a qualified municipal
25 voter.

26 (This section would require the clerk to provide
27 the petition forms to the petitioners. This is similar to
the requirement levied upon the Lieutenant Governor in state

1 initiative proceedings. The petition contents are essentially
2 the same as present law (AS 29.28.065) with a shortening of
3 the petition circulation time from 90 to 60 days, some
4 expansion of the information the petition signers must
5 provide, and the addition of the circulator's affidavit in
6 (5) of the section.)

7
8 29.30.120 Required Signatures. (a) The necessary
9 signatures on a petition shall be secured within ⁹⁰~~60~~ days of
10 the date the clerk first issues the petition. The petition
11 shall be signed in ink or indelible pencil.

12 (b) Every petition, whether dealing with an areawide
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1 or a non-areawide matter, shall be signed by a number of
2 registered voters residing within the territorial limits of
3 the municipality equal to ~~25~~^{40%} percent of the number of votes
4 ~~x~~ cast at the last regular municipal election in the municipality
5 which was held on or prior to the date of the first issuance
6 of the petition.

7 (c) Illegible signatures shall be rejected by the
8 clerk unless accompanied by a legible printed name. Signa-
9 tures not accompanied by a legible residence address shall
10 be rejected.

11 (d) A petition signer may withdraw his signature
12 upon written application to the clerk at any time prior to
13 certification of the petition by the clerk.

14 (e) The petition pages shall be assembled and
15 filed as a single instrument.

16 (This section carries forward the 60 day signature
17 gathering period. Although it does not eliminate the
18 possibility of an initiative or referendum on a matter which
19 affects only a service area, it does require that such
20 petitions contain the same number of signatures as a petition
21 on an areawise matter. Permitting a service area to initiate
22 and vote upon a matter on a service area basis is contrary
23 to the concept of the service area being under the control
24 of the entire legislative body. If service areas are permitted
25 to initiate and vote upon service area only initiatives,
26 service areas will have the authority to become essentially
27 autonomous units of government without a governing body.
Other minor changes were made to require rejection of signatures
which were illegible or failed to have additional legible
information accompanying the signature.)

29.30.130 Sufficiency of Petition. (a) Within
ten days of the date the petition is filed, the municipal
clerk shall certify on the petition whether or not it is
sufficient.

1 (b) If the petition is insufficient, it may be
2 amended or supplemented with additional signatures which are
3 obtained within ten days after the date on which the petition
4 is rejected as insufficient.

5 (c) Within ten days after the supplementary filing,
6 the clerk shall recertify the petition. If the petition is
7 still insufficient, the petition is rejected and filed as a
8 public record.

9 (The only significant change is to make it
10 clear that in providing supplementary signatures, the petitioners
11 have only ten days to gather the signatures and may not use
12 petition signatures which were gathered prior to the first
filing but not submitted, and that they may not use signatures
gathered during the period in which the clerk is checking
the petition.)

13 29.30.140 Protest. If the clerk certifies the
14 petition is insufficient, a signer of the petition may file
15 a protest with the municipal executive within seven days
16 after the certification and the municipal executive shall
17 present the protest at the next regular meeting of the
18 assembly or council which shall hear and decide the protest.

19 (No change.)

20 29.30.150 New Petition. Failure to secure sufficient
21 signatures does not preclude the filing of a new application for
22 an initiative or referendum petition. However, a new application
23 for a petition may not be filed sooner than six months after
24 the petition is rejected by the clerk. *expand & clarify*

25 (This section was changed slightly to take into
26 account the application procedure and to indicate that the
27 rejection from which the six months is counted is a rejection
by the clerk, not a rejection which might be deemed to have
occurred if the matter is appealed to the assembly and the
assembly sustains the clerk's rejection.)

1 29.30.160 Presentation of Initiative. (a) When a
2 petition seeks enactment of an ordinance or resolution
3 ~~within the powers of the assembly or council and not otherwise~~
4 ~~restricted by §90 of this chapter, the clerk shall present~~
5 it to the assembly or council at its next meeting ^{or spec. mtg} after ^{called for} that purpose.
6 certification. The assembly or council may reject the
7 petition if it determines the subject matter of the initiative
8 or referendum is within the restrictions of §90 of this
9 chapter or is unlawful.

10 *Make consistent* → (b) (An initiative measure presented to the assembly
11 or council and not rejected under section (a) shall be
12 submitted to all the voters of the municipality at the next
13 regular municipal election held more than 45 days after
14 submission of the petition to the assembly or council,
15 unless the assembly or council adopts substantially the same
16 measure.] If the assembly or council adopts substantially
17 the same measure, the petition shall be void and the question
18 shall not be submitted to the voters. *VEROS*

19 (c) The ordinance or resolution shall be published
20 in full in the notice of the election but may be summarized
21 on the ballot to indicate clearly the proposal submitted.

22 (The changes here allow for the submission of
23 an initiative measure at any time during the year, but it
24 would be placed before the voters at the first regular
25 municipal election occurring 45 days after submission to the
26 assembly or council, unless rejected for cause or adopted in
27 substantially the same form as presented. It also requires
an areawide vote whether the matter is areawide or non-areawide
for reasons outlined above.)

29.30.170 Presentation of referendum. (a) When a

1 petition seeks a referendum vote on a legislative ordinance
2 or resolution, the clerk shall submit the ordinance or
3 resolution to all the voters of the municipality at the next
4 regular or special election unless the assembly or council
5 repeals the ordinance or resolution to be referred. If no
6 regular or special election occurs within 75 days of the
7 certification of a sufficient petition by the clerk, the
8 assembly or council shall hold a special election within 75
9 days of filing.

concerning,
OK

10 (b) If a sufficient petition for referendum is
11 certified before the effective date of the ordinance or
12 resolution, the ordinance or resolution against which the
13 petition is filed shall be suspended pending the referendum
14 on the matter. During the period of suspension, the assembly
15 or council may not enact an ordinance or resolution substantially
16 similar to the suspended measure but may repeal the suspended
17 ordinance or resolution.

18 (c) If the assembly repeals the ordinance or
19 resolution before the election, the petition shall be void
20 and the referred measure shall not be placed before the
21 voters.

22 (d) If a majority of those voting favor the repeal
23 of the referred measure, it is repealed; otherwise, it
24 remains in effect or, if suspended under section (b), it
25 shall become effective upon certification of the election
26 results by the assembly or council.

27 (The ability to suspend an ordinance or resolution
which had taken effect if a referendum petition was filed

1 within 30 days of the passage of the ordinance or resolution
2 has been deleted to avoid the apparent ability of a part of
3 the voters to be able to exercise a temporary repeal of the
4 measure. The reference to amending a charter by initiative
or referendum was deleted as it is already covered under
AS 29.13.080. This also requires submission of the question
to the areawide voters for reasons outlined above.)

5 29.30.180 Effect. (a) The assembly or council may
6 not, within two years of its effective date, repeal an
7 ~~ordinance or resolution~~ *ordinance or resolution* adopted through the initiative
8 process nor may it amend such an ordinance or resolution in
9 a way to substantially modify or negate the effect of the
10 successful initiative.

11 *matter left* (b) If an ~~ordinance or resolution~~ *measure* against which a
12 referendum is directed has been repealed by the assembly
13 or council after a petition has been filed but before the
14 referendum election, or if an ~~ordinance or resolution~~ *measure* is
15 repealed by the voters in a referendum election, the council
16 or assembly may not enact substantially similar legislation
17 for a period of one year after the repeal. A measure which
18 is repealed in a referendum election shall be repealed
19 effective upon the certification of the election results by
20 the assembly or council.

21 (c) An unsuccessful initiative or referendum
22 precludes the filing of a new application for the same or
23 substantially the same purpose sooner than six months after
24 the initiative or referendum election results are certified
25 by the assembly or council.

26 (Minor changes to make dates more certain and
27 to accommodate the petition application process.)

* * * * *



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246 4801

BOROUGH ATTORNEY'S OFFICE

October 14, 1980

To: Members of AS 29 Technical Committee

Dear Member:

Enclosed please find drafts of AS 42 and 23 relating to planning, platting, and land use regulations and municipal officers and employees.

I would appreciate and welcome your comments on these drafts before or during the next meeting of the Technical Committee, scheduled for October 20, 1980.

Cordially,

A handwritten signature in cursive script, appearing to read "Allan E. Tesche".

Allan E. Tesche
Borough Attorney

er

Enclosure

Section

- 10. Planning, platting, and land use regulation
- 20. Planning commission
- 30. Comprehensive plan
- 40. Land use regulations
- 50. Appeals from administrative decisions
- 60. Judicial review
- 70. Platting jurisdiction and power
- 80. Application to state and political subdivisions
- 90. Waiver in certain cases
- 100. Procedure
- 110. Information required
- 120. Alteration of replat petition
- 130. Notice of hearing
- 140. Hearing and determination
- 150. Recording
- 160. Title to vacated area
- 170. Penalties

Sec. 29.42.010. Planning, platting, and land use regulation. (a)

First and second class boroughs shall provide for planning, platting, and land use regulation on an areawide basis.

(b) the assembly by ordinance may delegate any of its powers and responsibilities under (a) of this section (except as otherwise provided in this chapter) to the council of a city of any class within the borough or a subordinate board or commission of a city, provided the city first consents by ordinance to that delegation. The assembly, with or without the consent of the council may at any time revoke any or all powers or responsibilities delegated to a city council or subordinate body under this section.

[adapted from AS 29.33.070]

(Alternate section suggested by Joanne Shannley)

Sec. 29.42.010. Planning, platting and land use regulation. (a) First and second class boroughs shall provide for planning, platting and land use regulation on an areawide basis.

(b) the assembly by ordinance may delegate any of its powers and responsibilities under (a) of this section (except as otherwise provided in this chapter) to the council of a city of any class within the borough or a subordinate board or commission of a city, provided the city first consents by ordinance to that delegation. The assembly, with or without the consent of the council may at any time revoke any or all powers or responsibilities delegated to a city council or subordinate body under this section.

(c) Notwithstanding the provisions of (b) of this section the functions of planning, platting, and land use regulation within a first class or home rule city located more than 25 miles from the boundary of the Borough seat may be assumed and exercised exclusively by that city upon ratification by the qualified voters residing in the city of an ordinance of the city council proposing exercise of those powers by the city.

[adapted from AS 29.33.070]

Sec. 29.42.020. Planning commission. (a) By ordinance the assembly shall establish a planning commission consisting of not less than five persons appointed and confirmed as provided by law. The assembly by ordinance shall also prescribe the qualifications, terms, and compensation of planning commissioners.

(b) In addition to those responsibilities prescribed by law, the planning commission shall:

(1) Prepare and recommend to the assembly a comprehensive plan for the systematic and organized development of the borough, as defined in .030 of this chapter.

(2) Prepare, recommend, and as required by law to administer those measures necessary to implement the comprehensive plan.

[adapted from AS 29.33.080]

Sec. 29.42.030. Comprehensive plan. (a) The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the borough, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.

(b) The assembly shall adopt a comprehensive plan based upon the recommendations of the planning commission. The assembly shall, with the advice and recommendations of the planning commission, undertake an overall review of the plan and update the plan as necessary to ensure the continued validity and effectiveness of the plan.

[adapted from AS 29.33.085]

Sec. 29.42.040. Land use regulation. In accordance with a comprehensive plan adopted under Section .030 of this chapter and in order to implement that plan, the assembly by ordinance and as a legislative act, may enact or amend regulatory measures governing the use and occupancy of land, including but not limited to:

(1) Zoning regulations which restrict or govern use of land and improvements by geographic districts;

(2) Construction, fire and life safety codes governing placement, erection and occupancy of structures;

(3) Land use permit systems designed to encourage specified uses and structures and to discourage others, or to minimize unfavorable externalities of certain uses and structures.

(4) Other regulatory measures reasonably necessary to further the goals and objectives of the comprehensive plan.

(5) Measures defining and regulating public nuisances.

[adapted from AS 29.33.090]

Sec. 29.42.050. Appeals from administrative decisions. (a) By ordinance the assembly shall provide for appeals from administrative decisions of borough employees or boards and commissions made in the enforcement, administration, or application of land use regulations adopted by the borough under this chapter to a board of adjustment, hearing officer, or other independent quasi-judicial body established by the borough.

(b) By ordinance the assembly shall provide for appointment of hearing officers, or the composition, appointment and terms of office of a board of adjustment or other quasi judicial body established to hear appeals from administrative actions specified in (a) of this section and the assembly may define proper parties, prescribe evidentiary rules and standards of review and define remedies available to such bodies or hearing officers.
[adapted from AS 29.33.110 and .120]

Sec. 29.42.060. Judicial review. (a) The assembly shall provide by ordinance for appeals from decisions of the board of adjustment, hearing officer or other quasi-judicial board established under Sec. 050 of this chapter to the Superior Court by a municipal officer or person jointly or severally aggrieved.

(b) Appeals to the Superior Court under this section are administrative appeals and shall be governed by Rules of Court applicable to appeals from decisions of administrative agencies.

(c) Appeals are heard on the record established by the administrative agency, and the court may affirm, reverse, wholly or partly, the decision

appealed from. Issues in proceedings under this section have preference over all other civil actions and proceedings.

[adapted from AS 29.33.130]

Sec. 29.42.070. Platting jurisdiction and power. (a) First and second class boroughs shall exercise the power to regulate platting and the subdivision of land on an areawide basis. By ordinance the assembly shall enact subdivision regulations:

(1) governing the form, size and other aspects of subdivision, dedications, and vacations of land;

(2) regulating dimensions and design features of lots or tracts;

(3) establishing street width, arrangement, and right of way, including allowance for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage and other public utility facilities and improvements.

(4) requiring dedication of streets, rights of way, public utility easements and other areas deemed by the platting authority necessary for future public use.

(b) The assembly by ordinance shall establish a platting board to administer subdivision regulations adopted by the borough and perform other duties prescribed by law. The platting board may, in whole or in part, consist of members of the planning commission or of other municipal bodies, boards and commissions.

[adapted from AS 29.33.150]

Sec. 29.42.080. Application to state and political subdivisions. All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to the provisions of this chapter and AS

29.42.080 -- 29.42.170, or home rule ordinances or regulations governing subdivisions, and shall comply with ordinances and other local regulations adopted under this chapter and AS 29.42.080 -- 29.42.170, or under home rule authority, in the same manner and to the same extent as subdivisions made by private landowners.

[AS 40.15.200]

Sec. 29.42.090. Waiver in certain cases. (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that:

(1) each tract or parcel of land will have adequate legal and physical access by the public to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of 29.42.080 -- 29.42.170 of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development which constitutes an isolated transaction and no dedication of a street, alley, thoroughfare, park or other public area is involved or required.

[AS 29.33.170]

Sec. 29.42.100. Procedure. (a) The platting board shall within 60 days of filing approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010 -- 40.15.020.

[AS 29.33.160]

Sec. 29.42.110. Information required. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance.

[AS 29.33.180]

Sec. 29.42.120. Alteration of replat petition. No recorded plat may be altered or replatted except upon petition of the owners of a majority of the land affected by the application or replat or by the platting board. No platted street may be vacated, except upon petition of the municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

[AS 29.33.200]

Sec. 29.42.130. Notice of hearing. The platting board shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The board shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The board shall also mail a copy of the notice to each affected property owner not signing the petition.

[AS 29.33.210]

Sec. 29.42.140. Hearing and determination. At the hearing the platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the city council. No vacation of a street in the borough area outside cities may be made without the consent of the borough assembly. The assembly or council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city or borough shall be considered to have been given to the vacation.

[AS 29.33.220]

Sec. 29.42.150. Recording. If the alteration or replat is approved, the revised plat must be recorded by the platting board and is thereafter the lawful plat.

[AS 29.33.240]

Sec. 29.42.160. Title to vacated area. (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

(b) If the borough or city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the borough or city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the borough or city on final vacation.

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate those streets, alleys, crossings, sidewalks or other public ways that may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for

another public purpose does not vest as provided in (a) of this section but remains in the city.

[AS 29.33.240]

Sec. 29.42.170. Remedies. (a) It shall be unlawful for the owner or agent of the owner of land located within a subdivision to transfer, sell, offer to sell, or to enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with applicable municipal subdivision regulations enacted under this chapter. It shall be unlawful for any person to file or record a subdivision plat or other instrument depicting subdivided land in any public recorder's office unless that plat or document bears the approval of the municipal platting authority. Every act prohibited by this chapter or the maintenance of any condition prohibited by municipal subdivision regulations adopted in accordance with this chapter is unlawful and the willful commission of such act or maintenance of such condition is a misdemeanor. Every person convicted of a violation of any provision of this title or any municipal subdivision regulation adopted under this title or the terms, conditions, or limitations imposed by a municipal platting authority in the exercise of its powers under this title is guilty of a misdemeanor and may be punished by a fine not to exceed \$500.

(b) If there is a violation of the terms of this chapter, municipal subdivision regulations adopted under this chapter, or any terms, conditions, or limitations imposed by a platting authority in the exercise of its powers under this chapter, the Borough or any aggrieved citizen may institute or cause to be instituted any appropriate civil action to prevent, abate, enjoin, estop, remove or punish such violation and to

obtain monetary damages suffered by that party. In addition to injunctive and compensatory relief each violation shall be subject to a civil penalty not to exceed \$1,000. An action to enjoin any violation to this title may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of an existing or threatened violation, the Superior Court shall grant injunctive relief to restrain that violation.

(c) Every day upon which an unlawful act or condition shall occur shall constitute a separate violation.

(d) The platting authority may enjoin any partition, lease, transfer, or sale of land which would result in an unlawful subdivision. Following an unlawful petition, transfer, lease or sale, the platting authority may enjoin any further transfer, sale of all unlawfully subdivided parcels until such time as the parcels are dully subdivided or returned to common ownership.

[new]

Chapter 23. Municipal Officers and Employees.

Article

1. Municipal legislative bodies
2. Municipal executive.
3. Chief administrative officers.
4. Municipal departments and employees.
5. Municipal boards and commissions.
6. Miscellaneous provisions.

Article 1. Municipal Legislative Bodies

Section

10. General legislative power
15. Assembly composition and apportionment
20. Composition and form of representation
25. Assembly recomposition and reapportionment
30. Apportionment appeals
35. Judicial review and relief
40. Effective date of apportionment
45. Applicability of apportionment provisions
50. City councils - composition and form of representation
55. Qualifications
60. Term of office
65. Procedures of municipal legislative bodies
70. Vacancies
75. Filling a vacancy

Sec. 29.23.010. General legislative power. The legislative power of a Borough is vested in the assembly, and of a city, in the council.

[AS 29.23.021]

Sec. 29.23.015. Assembly composition and apportionment. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The Assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough.

[AS 29.23.015]

Sec. 29.23.020. Composition and form of representation. (a) The borough assembly shall provide for its composition and for the form of its representation.

(b) Not later than the first regular election which occurs after the report of a federal decennial census, the assembly shall propose and submit to the voters of the borough, at that regular election or at a special election called for the purpose, one or more forms of borough assembly representation. The forms of representation which the assembly may submit to the voters are:

(1) election of members of the borough assembly at large by the qualified voters throughout the borough;

(2) election of members of the borough assembly by district including

(A) election at large by the qualified voters throughout the borough, but with a requirement that a candidate live within an election district established by the borough for elections of assembly members; or

(B) election from election districts established by the borough for the election of assembly members by the qualified voters of a district;

(3) election of members of the borough assembly both at large and by district.

(c) A form of borough assembly representation which includes election of borough assembly members under (b)(2) or (b)(3) of this section shall be

submitted to the voters of the borough with a plan of apportionment as required by AS 29.23.025(a).

(d) The borough assembly shall, within 30 days of certification of the results of the election held on a proposed form of representation under this section, adopt an ordinance providing for its composition and the form of assembly representation, and, if applicable, the apportionment of assembly seats which corresponds to the proposed form of representation which receives the most votes at the election.

(e) This section does not apply

(1) to a unified municipality incorporated under AS 29.68.240 - 29.68.440;

(2) to a home rule borough if the borough charter contains procedures for changing assembly composition and form of representation.
[AS 29.23.021]

Sec. 29.23.025. Assembly recomposition and reapportionment. (a) Not later than two months after the official report of a federal decennial census, the borough assembly shall determine and declare by resolution whether the existing apportionment of the borough assembly meets the standards of AS 29.23.015. If the borough assembly submits to the voters a form of representation which includes election of borough assembly members under AS 29.23.020(b)(2) or (b)(3), the assembly shall submit with the proposition a proposed plan of apportionment which corresponds to the form of representation proposed. The assembly shall describe the plan of apportionment in the ballot proposition, and may present the plan in any manner which it believes accurately describes the apportionment which is proposed under the form of representation. If the borough assembly determines that its existing apportionment meets the standards of AS 29.23.015, the

assembly may include the existing apportionment as a proposed plan of apportionment of assembly seats which corresponds to a form of representation which is proposed.

(b) The Borough assembly shall provide, by ordinance, for a change in an existing apportionment of the borough assembly whenever it determines that the apportionment does not meet the standards of AS 29.23.015. At the same time, the borough assembly may, by ordinance, change the composition of the assembly.

(c) If a petition signed by not less than 50 registered voters who are residents of the borough requests the borough assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.23.015, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly may make the determination requested. The borough assembly shall make a determination required by this subsection within two months of receipt of a petition which meets the requirements of this subsection.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within six months of a determination by the borough assembly under (b) or (c) of this section that the current apportionment does not meet the standards of AS 29.23.015, the borough assembly shall adopt an ordinance providing for reapportionment, and submit the ordinance to the voters. If, at the end of the six month time period, an ordinance providing for reapportionment has not been approved by the voters, the commissioner of the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.015 by preparing an order of reapportionment and delivering the order to the borough mayor.

[AS 29.23.025]

Sec. 29.23.030. Apportionment appeals. (a) A reapportionment ordinance approved by the voters, or a decision of the borough assembly that the standards of AS 29.23.015 do not require a change in apportionment, may be appealed to the commissioner of the Department of Community and Regional Affairs. Fifty registered voters who are residents of the borough may submit a petition to the commissioner of the Department of Community and Regional Affairs requesting the commissioner to determine whether the proposed reapportionment ordinance approved by the voters meets the standards of AS 2.23.015, or whether a decision of the borough assembly that the standards of AS 29.23.015 do not require a change of apportionment is correct. If the petition asks the commissioner of the Department of Community and Regional Affairs to review an ordinance approved by the voters under AS 29.23.025(e), the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner of the Department of Community and Regional Affairs to review a decision of the borough assembly under AS 29.23.025(c), the petition shall be delivered to the commissioner within 20 days of the decision of the borough assembly.

(b) The commissioner of the Department of Community and Regional Affairs shall review the petition and may make the determination requested. The commissioner shall provide copies of his determination to the persons petitioning for appeal and to borough officials not later than 60 days after he receives the petition.

(c) If the commissioner of the Department of Community and Regional Affairs determines that the proposed reapportionment ordinance approved by the voters does not meet the standards of AS 29.23.015, or if he determines that the decision of the borough assembly that the standards of AS 29.23.015 do not require a change of reapportionment is not correct, the

commissioner shall, by order, direct the borough assembly to prepare a reapportionment ordinance which meets the standards of AS 29.23.021 and submit the ordinance to the voters.

(d) When the borough assembly has been directed by the commissioner of the Department of Community and Regional Affairs to prepare a reapportionment ordinance under (c) of this section, the borough assembly shall, within two months of its receipt of the commissioner's order, adopt an ordinance providing for reapportionment. The borough assembly shall submit an ordinance adopted under this subsection to the voters at a regular election or special election held within 60 days of the date of adoption of the reapportionment ordinance.

(e) If at the end of the time period provided under (d) of this section an ordinance providing for reapportionment has not been approved by the voters, the commissioner of the Department of Community and Regional Affairs shall provide for the reapportionment of the borough assembly in accordance with the standards of AS 29.23.015 by preparing an order of reapportionment and delivering the order to the borough mayor.

[AS 29.23.027]

Sec. 29.23.035. Judicial review and relief. (a) The commissioner of the Department of Community and Regional Affairs may request the superior court to enforce a reapportionment order issued under AS 29.23.030(e).

(b) Each of the following is subject to judicial review:

(1) a plan of reapportionment approved by the voters under AS 29.23.025(a);

(2) a determination by the borough assembly under AS 29.23.025(c) that the standards of AS 29.23.015 do not require a change in apportionment;

(3) a reapportionment ordinance approved by the voters under AS 29.23.025(d);

(4) a reapportionment order of the commissioner of the Department of Community and Regional Affairs made under AS 29.23.030(c);

(5) a reapportionment ordinance approved by the voters under AS 29.23.030(d); and

(b) a reapportionment order of the commissioner of the Department of Community and Regional Affairs made under AS 29.23.030(e).

[AS 29.23.029]

Sec. 29.23.040. Effective date of apportionment. (a) A change in assembly apportionment or composition under AS 29.23.025 or 29.23.030 is effective beginning with the first regular election for members of the assembly which is held more than 60 days after the later of:

(1) approval of a reapportionment ordinance by the voters under AS 29.23.025(a), 29.23.025(e), or 29.23.050(d); or

(2) the delivery to the mayor of a reapportionment order of the commission of the Department of Community and Regional Affairs under AS 29.23.027(e).

(b) The provisions of (a) of this section do not apply to a borough in which a change in assembly composition or reapportionment is subject to review and approval or determination of nonobjection by the Attorney General of the United States under the Voting Rights Act of 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly composition or apportionment subject to review under the Voting Rights Act of 1965, as amended, is effective beginning with the first regular election for members of the assembly which is held more than 60 days after

(1) receipt by the borough assembly of approval by the Attorney General of the United States of the proposed change in the composition or apportionment of the assembly;

(2) receipt by the borough assembly of a statement of non-objection from the Attorney General of the United States to the proposed change in the composition or apportionment of the assembly; or

(3) the last day on which the Attorney General of the United States may review a proposed change in the composition or apportionment of the assembly.

[AS 29.23.031]

Sec. 29.33.045. Applicability of apportionment provisions. The provisions of S 29.23.025 - 29.33.035 do not apply;

(1) to a unified municipality incorporated under AS 29.68.240 - 29.68.440;

(2) to a home rule borough if the borough, by charter, provides for reapportionment of the borough assembly.

[AS 29.23.033]

Sec. 29.23.050. City councils--composition and form of representation. Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at-large basis for all members.

[AS 29.23.200]

Sec. 29.23.055. Qualifications. (a) ~~A person registered to vote~~
a borough voter is ~~within the borough is~~ eligible to be an assemblyman and a ~~person registered~~
city voter is ~~to vote within a city is~~ eligible to be a member of the council. An
assemblyman or council member who ceases to be a ~~qualified~~ borough or city
voter respectively forfeits that office.

(b) The assembly and council by ordinance may establish durational
residency requirements for their members not to exceed one year.

(c) An assemblyman or council member elected from or selected to
represent an area less than the borough or city area at large and who
becomes a resident of another area within the municipality, may continue to
serve until the next regular election unless the assembly or council by
ordinance provides otherwise.

District residency requirements
[AS 29.23.050, 29.23.200(b) and (c)]

Sec. 29.23.060. Term of office. (a) Assemblymen and members of the
council are selected for three year terms and until their successors have
qualified, unless different terms are prescribed by ~~charter or~~ ordinance.

(b) Except when otherwise required by a change in composition or reap-
portionment, if the term of an assemblyman or member of a council is
changed by ~~charter or~~ ordinance, the term of that official holding office
at the time such change becomes effective is not affected by that change.

(c) The regular term of office begins on the first monday following
certification, unless a different date is prescribed by ~~charter~~ or
ordinance.

drop (d) ~~This section applies to home rule and general law municipalities.~~
[AS 29.23.040, 29.23.200(b)]

Sec. 29.23.065. Procedures of municipal legislative bodies. (a) The borough assembly and city council shall elect from among their members a presiding officer and a deputy presiding officer to serve at the pleasure of the members, except that in a borough which has adopted the manager form of government under AS 29.23.115 - .155, the mayor serves as presiding officer. If the presiding officer is not present or disqualifies himself, the deputy presiding officer shall preside.

(b) Municipal legislative bodies shall hold at least one regular meeting every month, unless otherwise provided by ordinance. Special meetings may be held at the call of the presiding officer or at least one third of the members provided at least a majority of the members are given at least 4 hours oral or written notice, and reasonable efforts are made to notify all members. A special meeting may be conducted with less than 24 hours notice if all members are present or if absent members have waived in writing the required notice. The waiver shall be made a part of the journal for each meeting.

(c) Meetings of all municipal legislative bodies shall be public as provided in AS 44.62.310. The assembly and council shall provide reasonable opportunity for the public to be heard at regular and special meetings. This^{sub} section applies to home rule and general law municipalities.

(d) A majority of the total membership authorized by law shall constitute a quorum. Members disqualified^y by law from voting on particular questions may nevertheless be considered present for purposes of constituting a quorum. In the absence of a quorum, any number of members may recess or adjourn the meeting to a later date.

(e) Actions of the body are adopted by a majority of votes authorized on the question. All members present shall vote on every question unless

by law or charter they are required to abstain from voting on any particular question. The final vote on every ordinance, resolution or substantive motion shall be recorded "yes" or "no", except that if the vote is unanimous, it is necessary only to so state.

(f) Municipal legislative bodies shall maintain a journal of their official proceedings which, as a public record shall be available to the public.

(g) Municipal legislative bodies may ~~consistent with law or charter,~~ determine by ordinance their own rules of procedure and order of business. [AS 29.23.060, 29.23.210, 29.23.580]

Sec. 29.23.070. Vacancies. (a) ~~An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the assembly or council.~~ *Unless otherwise provided by ordinance* The assembly or council ~~shall~~ *may* declare an elective office vacant when the person elected

(1) fails to qualify or take office within 30 days after his election or appointment;

(2) is physically absent from the municipality for a 90-day period, unless excused by the assembly or council;

(3) resigns and his resignation is accepted;

(4) is physically or mentally unable to perform the duties of his office;

~~(5) is removed from office;~~

is member of council or boro assy.
(6) misses three consecutive regular meetings unless excused;

(7) is convicted of a felony or of an offense involving a violation of his oath of office; or

(8) is convicted of a felony or misdemeanor described in AS 15.56 as a corrupt practice and two thirds of the members concur in expulsion of the member for commission of a corrupt practice.

(b) Upon occurrence of any of the grounds stated in (a) of this section for expulsion of a member, ~~the assembly or council shall take action authorized in this section at its next regular meeting or as soon thereafter as practical.~~

[AS 29.23.570, 29.23.060, 29.23.130, 29.23.210]

Sec. 29.23.075. Filling a vacancy. (a) ~~Unless otherwise provided by ordinance, a vacancy on the assembly or council shall be filled as provided in (b) of this section.~~

~~(b)~~ If a vacancy occurs on the assembly or council, the remaining members shall appoint a qualified person to fill the vacancy within 30 days. The person appointed shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term. If less than 30 days remain in a term when a vacancy occurs, the vacancy shall not be filled. If, however, at any time the membership is reduced to fewer than a quorum, the remaining members shall, within 7 days appoint a number of qualified persons to constitute a quorum.

[AS 29.23.080, 29.23.220]

Article 2. Municipal Executive

Section

- 80. Executive power
- 85. Election and term of the mayor
- 90. Qualifications for the office of mayor
- 95. Duties and responsibilities of the mayor
- 100. Veto
- 105. Executive absence
- 110. Vacancy in the office of mayor

Sec. 29.23.080. Executive power. (a) The executive power within a borough or city is vested in a mayor elected by the voters or the governing body as provided in this article.

(b) The mayor, ~~as executive shall act as ceremonial head of government,~~
~~execute official documents~~ ^{upon} authorization from the governing body and
is responsible for those additional duties and functions prescribed by ~~law~~
~~or charter.~~ *ordinance*

[AS 29.23.130, 29.23.140]

Sec. 29.23.085. Election and term of the mayor. (a) The mayor of a
~~home rule municipality~~, borough of any class, and first class city is
elected at large by the voters. The mayor of a second class city is
elected by and from the council.

(b) A mayor shall serve a term of 3 years unless by ordinance a
different term not to exceed 4 years is provided, except that the current
term of an incumbent mayor may not be altered. The mayor's regular term
commences on the first Monday following certification of his election. The
council of a second class city shall meet on the first Monday after certi-
fication of the regular election and elect a mayor who takes office
immediately.

[AS 29.23.130, 29.23.250]

Sec. 29.23.090. Qualifications for office of mayor. (a) A voter of a
~~home rule municipality~~, borough of any class, or first class city is
eligible to hold the office of mayor. A member of a city council for a
second class city is eligible to hold the office of mayor for that city.

(b) Residency requirements for the office of mayor ~~not exceeding one~~
three
year may be prescribed by ordinance.

[AS 29.23.130, 29.23.250]

Sec. 29.23.095. Duties and responsibilities of the mayor. (a) If a city or borough has not adopted the manager form of government, the administrative power is vested in the mayor and the mayor has the same functions as those of manager under Sec. .155 of this chapter.

(b) The mayor shall preside over meetings of the council or assembly of a municipality which has adopted the manager form of government.

(c) The mayor may take part in the discussion of all matters before the assembly or council.

(b) The mayor may not vote in any matter before the Assembly or council, except that the mayor of a first class city may vote in the case of a tie, and the mayor of a second class city, as a council member, may vote on all matters.

[AS 29.23.130, 29.23.260, 29.23.160]

Sec. 29.23.100. Veto. (a) Except as provided by (b) and (c) below, the mayor may veto any ordinance, resolution, motion, or other action of the governing body of the borough or city, and reduce appropriation items.

(b) The mayor of a second class city has no veto power.

(c) The veto does not extend to:

(1) appropriation items in school budget ordinances;

(2) actions of the Board of Equalization and the Board of Adjustment;

(3) adoption or repeal of the manager form of government under Sec. 29.23.115 - .150 of this chapter; or

(4) motions relating solely to the internal legislative functions of the assembly or council.

(d) The veto must be submitted to the assembly or council ~~before~~ ^{not later than} its next regular meeting and must be accompanied by a written explanation of

the reasons for that action. A veto may be overridden only by vote of two thirds of the authorized membership of the assembly or council, taken within 21 days following exercise of the veto.

or next mtg (whichever is later).
[AS 29.23.170, 29.23.260, 29.23.270]

Sec. 29.23.105. Executive absence. * In the temporary absence or disability of the mayor, ~~The~~ governing body of a borough or city shall by resolution * designate a person to serve as acting mayor.

[AS 29.23.150]

*Mayors designate own replacement.
where veto power*

Sec. 29.23.110. Vacancy in the office of mayor. (a) The office of mayor may become vacant as provided in .070 of this chapter. *2/3 vote* *not collected*

(b) Except as provided in (c) below, a vacancy in the office of mayor occurring within six months *prior to* of a regular election shall be filled by the assembly or council. The person appointed shall, serve until the next regular election and until a successor is elected and has qualified. If a member of the assembly or council is chosen, he shall resign his seat. If a vacancy occurs more than six months before a regular election, the assembly shall call a special election to fill the expired term.

(c) In a second class city, the office of mayor is filled by and from the council.

[AS 29.23.180, 29.23.280]

Article 3. Chief Administrative Officers

Section

- 115. Application
- 120. Petition
- 125. Election
- 130. Adoption
- 135. Appointment
- 140. Term
- 145. Appointment of temporary or new manager
- 150. Repeal
- 155. Powers and duties of the manager
- 160. Intergovernmental appointments

Sec. 29.23.115. Application. A municipality may adopt a manager plan of government.

[AS 29.23.410]

Sec. 29.23.120. Petition. Adoption of a manager plan may be initiated either by petition or upon motion of the assembly or council. A petition for the adoption of a manager plan is submitted to the assembly or council. The petition must be signed by a number of municipal voters equal to the following per cent of the votes cast at the preceding regular municipal election:

(1) 25 per cent when the municipality has fewer than 7,500 persons;

(2) 15 per cent when the municipality has 7,500 persons or more.

[AS 29.23.420]

Sec. 29.23.125. Election. Upon receipt of the petition or upon its motion, the assembly or council shall provide by ordinance or resolution for a vote on the question at the next regular or special election. Notice of the election shall be published at least 30 days before the election.

[AS 29.23.430]

Sec. 29.23.130. Adoption. (a) If the manager plan is approved, the assembly or council shall, within 60 days, adopt the plan by ordinance or resolution.

(b) The assembly or council shall notify the Department of Community and Regional Affairs of the adoption of the manager plan.

[AS 29.23.440]

Sec. 29.23.135. Appointment. The assembly or council shall appoint a manager by a majority vote of its membership. He is chosen solely on the basis of his executive and administrative qualifications and receives the compensation set by the assembly or council. An elected municipal official may not be appointed manager of the municipality sooner than one year after leaving office, except that, by a vote of three-fourths of its authorized membership, the assembly or council may at any time appoint one of its members or other elected municipal officials as manager.

[AS 29.23.450]

Sec. 29.23.140. Term. Subject to the contract of employment, the manager holds office at the pleasure of the assembly or council.

[AS 29.23.460]

Sec. 29.23.145. Appointment of temporary or new manager. In the absence or disability of the manager, the assembly or council shall appoint a temporary manager. If the office become vacant, the assembly or council shall appoint a new manager.

[AS 29.23.470]

Sec. 29.23.150. Repeal. A municipality may repeal the manager plan in the same manner used for its adoption. At its first meeting after repeal, the assembly or council shall enact provisions for the reorganization of the municipal executive and chief administrator.

[AS 29.23.480]

Sec. 29.23.155. Powers and duties of the manager. As chief administrative officer the manager shall:

(1) appoint, supervise, and discipline all municipal employees except those who are appointed and supervised directly by the governing body;

(2) supervise the enforcement of municipal law and carry out the directives of the governing body;

(3) prepare and submit an annual budget and capital improvement program for consideration by the governing body and execute the budget and capital improvement program as adopted;

(4) make such monthly financial reports and such other periodic reports on municipal finances and operations as the governing body may direct;

(5) exercise care and custody over all real and personal property of the borough except as provided otherwise in AS 29.33.050; and

(6) perform other powers and duties provided by law or by action of the governing body.

[AS 29.23.140, 29.23.290]

Sec. 29.23.160. Intergovernment appointments. A borough adopting a manager plan may, by agreement with a city, enter into a contract providing for the manager of a city located within the borough to serve also as borough manager. A city adopting a manager plan, may by agreement with a borough, enter into a contract providing for the manager of a borough

within which the city is located to serve also as city manager. Appointment and service of the manager shall be as otherwise provided for managers in §§ 115-155 of this chapter. Nothing in this subsection affects the authority of the assembly or council to provide for other dual office-holding if the dual offices held are compatible or otherwise to appoint officers and employees in accordance with law.

[AS 29.23.130(e)]

Article 4. Municipal Departments and Employees

Section

- 165. Appointment of Officers
- 170. Municipal Attorney
- 175. Municipal Clerk
- 180. Municipal Treasurer
- 185. Departments
- 190. Personnel system

Sec. 29.33.165. Appointment of Officers. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrative officer unless otherwise provided by ordinance. Officers described in this section serve at the pleasure of their appointing authority and, if appointed by the chief administrative officer must be confirmed by the governing body.

[AS 29.23.360]

Sec. 29.23.170. Municipal attorney. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed.

[AS 29.23.370]

Sec. 29.23.175. Municipal clerk. (a) The municipal clerk shall

(1) give notice of the time and place of meetings to the assembly or the council and to the public;

(2) attend meetings and keep the journal;

(3) arrange publication of notices, ordinances, and resolutions;

(4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;

(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the faithful performance of his duties as clerk-treasurer.

[AS 29.23.380]

Sec. 29.23.180. Municipal treasurer. (a) The treasurer is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum which the assembly or council directs.

[AS 29.23.390]

Sec. 29.23.185. Departments. (a) The governing body of a municipality may establish departments and distribute functions among them.

(b) Each department is administered by a department head. With the consent of the governing body, the mayor may serve as head of one or more departments or a single administrator may serve as head of two or more departments.

[AS 29.23.070]

Sec. 29.23.190. Personnel system. (a) Except as provided by (b) below, all appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system.

(b) By ordinance the governing body may designate executive positions filled by persons who serve at the pleasure of their appointing authority and which are wholly or partially exempt from the classified service.

[AS 29.23.550]

Article 5. Municipal Boards and Commissions

Section

195. School Boards

200. Other Boards and Commissions

Sec. 29.23.195. School boards. Each borough and city school district has a school board. Members are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance, for three-year terms and until their successors take office. All board members are elected at large, but school zones for the election of borough school boards may be established, altered, or abolished as provided by § 100 of this chapter.

[AS 29.23.310]

Sec. 29.23.200. Other boards and commissions. (a) The assembly or council of a municipality may, by ordinance, establish such advisory, administrative, technical, or quasi judicial boards and commissions it deems necessary.

(b) Members of boards and commissions, except for the Board of Adjustment and assembly members serving on the Board of Equalization are appointed by the mayor and confirmed by the assembly or council.

[new]

Article 6. Miscellaneous Provisions

Section

- 205. Salaries of elected officials
- 210. Prohibitions
- 215. Conflict of Interest
- 220. Reports

Sec. 29.23.205. Salaries of elected officers. The assembly or council shall fix by ordinance the salaries of elected officers. The salary of the mayor may not be reduced during his term of office. An elected officer may not receive any other compensation for service to the municipality. Per diem payments or reimbursements for expenses are not compensation under this section.

[AS 29.23.530]

Sec. 29.23.210. Prohibitions. (a) No person may be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of his race, color, sex, creed, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations.

(b) This section applies to home rule and general law municipalities.

(c) No state employee or school district employee may be denied the right to serve as an elected municipal official because of his employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, no school district employee may serve on a school district board in the school district where he is employed. Provisions of this section do not apply to term of office in effect on August 24, 1976.

(d) For purposes of this section a school district employee is not a municipal employee.

[AS 29.23.540]

Sec. 29.23.215. Conflict of interests. Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically applicable to and binding upon that municipality.

[AS 29.23.555]

Sec. 29.23.220. Reports. (a) Home rule and general law municipalities shall file with the Department of Community and Regional Affairs:

- (1) maps and descriptions of all annexed or excluded territory;
- (2) a copy of the annual audit or in the case of second class cities an audit or statement of annual income and expenditures;

(3) tax assessment and tax levy figures as requested;

(4) reports relating to long-term debt as provided in AS 44.19

.205.

(5) a copy of the current annual budget of the municipality;

(6) a summary of the optional property tax exemptions authorized in the municipality, together with the municipality's estimate of the revenues lost to it by operation of each of the exemptions.

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.88 and state aid for miscellaneous municipal services under AS 29.89. The Department of Community and Regional Affairs shall withhold annual allocations under those chapters in the event of noncompliance until such time as the report requirements are met.

[AS 29.23.555]

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

A G E N D A

TITLE 29 - TECHNICAL REVIEW GROUP

December 4-5, 1980

I. ✓ Report on November Policy Committee Meeting - Tam Cook

II. Review of Proposed Title 29 Amendments

✓ A. Municipal officers and employees - Allan Tesche

Later (B.) Planning and Zoning - Allan Tesche
JoAnn Hanley

(C) Municipal Assessment and Taxation - Russ Walker
John Messenger

(D) Municipal Debt/Special Assessments - John Messenger

E. Local Government Powers - Jim Nordale
Russ Walker

III. Discussion of other proposed amendments and policy recommendations concerning Title 29.

A. Classification of Municipalities

B. Recognition of Traditional Native Governments

C. Other issues

IV. Unfinished business/Adjournment

Working Group meeting 19 Sep 80

Messenger: Sugg break up into "parts":
not agreed to.

Identify policy questions -
have sur

Valeri - why unorg boro-legal reasoning for
treating diff. as a borough. See reluctance
on part of the legislature to serve as
assembly for. Treat as municipality

Land selection to back - leave cross
reference in 18.

Expand recall to include filling the
vacancy

Mail working
to people

Are IT CLEAR that a home rule

Issue

Percentage requirements for petitions
(elections) % of number of persons voting
in last election.

SB
Clarified

Issue

29.13.050 Procedures. Bound by provisions
of other title re Initiative referendum.

29.13.100 HE mun gov. by provisions of
other statutes. SB cross-referenced?

Can we make more precise the
inconsistencies between ~~HE~~ ^{the} State

Issue

Development cities - SB scrapped?

Issue Article New (chap 23)

Public records of municipalities
- can make ordinances for confidential
records.

plus
majority

29.23.010 - Apportionment

Issue (Residency)

Requirements for voting
should man. be allowed to set res. req.
for elected officials?
into court case - Homee? ✓

Issue Majority requirements for votes
of mun. assemblies. Votes = 1 less
than a quorum?

Leave alone but provide for
alternate methods.

29.23.021 Delineation between composition
& reapportionment

Issue Provisions for emergency
situations regarding lack of a
quorum.

29.48.130(5) Ordinance vs resolution
for budget trans. or
supplemental appropriations

Issue Mayoral veto - encompass
what?

29.48.180(5) Burden to smaller comm.
1 yr review. Required? Codify?
OR if yes ↑ assistance by C&RA?
remove ref to legal advisor

160 GLM ex empowers

Satisfied w oeg
break into sub-comm
clean up language
propose substantive changes.

Planning & Zoning
Boro or city Area-wide powers
definitions

Taxation, Assessment & Debt
Messenger
Walker

28, ~~28~~, 23
Shanley Elections
Teeche

Powers - Boro & Intergov Powers, Service
Areas Vordale
Walker
pg 10, chap 48

Planning, platting & zoning
Shanley
Nordale
Tasche

Home Rule Introduction Pg 1-5
Berns
Sharp
Land selection.
Agenda

Russenger
Noedale
Shanley
Teeche
Sharp
Garnett
Walker

Chitwood
Poland
Stungulowski
Folise

Wkg Grp Mtg 20 Oct 80

Burns & Sharp

CH3 NOCH4

29.06.010 29.08.010 - Add ref to new municipalities

29.18.180

Costs of forming new boroughs -
toss out per voter amount because
of small population - 3 or 4 votes - 1
to 100,000.

Recommend to Policy Group \$150,000

29.68.310

Charter Comm:

Vote to Policy Group w alternatives

- City, Borough & ~~town~~side, appt. their own.
(5 votes)
1. ~~Appointment of 12 members~~ (5 votes)
2. ~~Provision of 12~~ (5 votes)

Issue: Draft of 2nd & 3rd alternative

7 Write In considerations

Garnett
Vote to reconsider votes passed

VOTE } 2 12

1. 1

Recommnd allowing 2nd & 3rd
class rates

Reconsider utilities deletion
Suggest 2. 1 & 2

148 & 149 ✓ for missing
section 29.50
Line 6

Ex of
07 Nov 80

53.415 Limitation? ^{ON} Sides Tax

Land selection statutes - Beems

Sharp moved to amend ~~in days~~
extra (29.30.290). Discussion

- Petition sigs. have to arrive to get
within 10 days - motion (regular?)

- Keep grounds for recall?

Include affidavit in petition?

Standards? 1 No Standards 12

Person being recalled can challenge
ground of recall ~~to assembly~~
~~on court~~

Opposed: 29.30.250

The 29.30.250 is a motion
to recall a member of the assembly

29.30.250

TEACHE motion ^{regular} 35% of voters voting
in the last municipal election in which votes were cast
in the election ~~to recall~~ ~~off the ballot~~
~~to recall~~ I opposed

union on each end.

1 yr term exempt from recall

- list of those elected off subject to recall
school bds etc.

Geared Sharp 7:10 am Lin

Initiative & Referendum:
Shanley & Sharp.
Filing time

29.30.160 (b) -

2nd 90-100 Apply
Move to ADDSEC allowing mem. to exempt
themselves from 2nd pay grade. find
VETERANS OR 100% disabled

NOTE: AS rec'd to Policy group.

Working Group Mtg Notes

08 Sept 80

Mtg called to order:

Present Tam Cook ~~~~~
(Rick Garnett, III)

Summ AG opinion
Index

Ted Beens recap: policy grp consensus -
disorganization &
reorganization

Also too much, gov need for more autonomy at local
level

Level of Applicability (Categories, functional
AREAS)

1, 2, 3 ~~~~~

4th cat: gen misc.

TC - Not to be held to this

Sample ordinances - CERA interested
not necessarily to be included.

Ridderker to help serve as liason to Ted
Beens.

Tesche - suggestions
- packet?

Walker
Issue: ^{Footnotes} Notations / cross reference to other statutes
in Title 29 (ie. bonding stat: T. 37)

Tesche: Computer search of all statutes to c/r
to Title 29?

Enumeration of 2nd c.B. Powers needs
cites to other powers

Nordale: ?

T. () Leave other statutes alone. Should only
c/r to policy matters.

Not to far from orig, but how far to go?

Sharp: Need to cut a lot of restrictions if dividing
applicability.

What about repetition. - will apply
to more than one section. So will
end up w/ more actual paper.

Tesche Worked on sorting into 4 cat. Doesn't
see any real problem.

Sharp: Sees a disparity. Additional restrictions
can be added to one section or other.

Single out "Home Rule" or "Gen Law"
one particular kind.

Berns Reorganization will only work if code simplified.

Shanley Confusion - A pyramid or 3 sep sections

Walker (Specific, umbrella & directory (optional))

Berns List or index broken down by specific boroughs, municipalities etc. ⁺ or cross reference.

Nordale List of sections and discuss by ~~section~~ ^{category}.

Messenger Bonding provisions in 1st category

Berns 1st cat - land selection,

Sharp Debt? ^{Berns:} 1st & also directory prov.
provisions

Tesche Utilities (be junked?) - 1st categories.

Walker Don't worry about content til after reorganization

Sharp. Application of functional areas decisions

Teache: Put together breakdown for policy group, showing current status and also recommendations.

Beens Cat II. organized by type of mun.
Chap. 23 - pitched? made into directory
mor.

Teache. Justification after meeting.
Beens Misc section in 1st CAT

Noedale Reorg not as important as clarification
in wording

Wkg grp went item by item on
Allan Teache's list & index

03.020 II CAT.

Development cities SB in 1st CAT because
everything is organizational/transitional.
IV 1(?) Eliminate statutes and have case
by case legislation
or in IV - Misc. will look there because
so specific.
Also capitol cities - SB in same
area -

- 5 cat.
- I Gen provisions
 - II All municipalities
 - III General Law
 - IV Directory provisions
 - V Misc.

23.010 ~~Does not apply to~~ Category III.
 Not general provisions describing
 creation etc.....

23.033
 23.040 ^{reccu} ^{IV} Nuts & Bolts procedural statutes ^{CAT III} directory
 BUT ALSO GEN LAW - MANDATORY.
 23.050* ^{reccu} ^{IV} Recc. cat IV - not mandatory. give
 060 options to municipalities. Referendum
 070 & initiative on local level.
 080

NOTE: 040 also applies to home rule
 municipalities.

* Divided

Note: Tent IV w qual than sections
 will be extracted and put in category
 III to be mandatory ie.

250A
 290
 ↑
 Currently
 in Cat
 III

040
 050
 250 a } cat II

OTHER - cat III.